

REMARKS

In the Office Action dated November 30, 2005, claims 1-17 are pending, claims 1-6, 9, 16 and 17 are rejected, and objection is made to claims 7 and 10-15. Applicant appreciates the acknowledgement of patentable subject matter at least in claims 7 and 10-15. Applicant requests reconsideration for at least the reasons discussed herein.

Claims 7 and 10 have been amended to place them in independent form.

Applicant appreciates the courteous telephone interview extended by Examiner Ricci to Applicant's undersigned representative on February 22, 2006. During the interview, the present claims and Jorgenson et al. were discussed. The substance of the discussion is included in the remarks below.

The present invention is directed to and claims a handheld amusement and stress relief device formed of a flexible, resilient polymeric material having a center portion with a concave/convex shape, wherein the device has **two stable equilibrium positions** wherein a first equilibrium position comprises a first surface having a concave shape and a second surface having a convex shape and a second equilibrium position is the reverse or inverse of the first equilibrium position and comprises the second surface having a concave shape and the first surface having a convex shape, whereby manual manipulation of the device inverts the first and second surfaces between the two stable equilibrium positions, as set forth in claim 1. In other words, the second stable equilibrium position is the reverse or inverse of the first stable equilibrium position. The device of the present invention **requires** manual manipulation to be moved from one stable equilibrium position to the other, no matter which stable equilibrium position it is in. Further, **the two equilibrium positions have substantially the same shape or appearance.**

The nature of the present invention can be readily seen by examining the samples of the device that were previously submitted with the response mailed January 25, 2001.

Claims 1 and 17 are rejected under 35 U.S.C. § 102(b) and claims 2-6, 8, 9 and 16 are rejected under 35 U.S.C. § 103(a) over Jorgenson et al. (US 3,414,186). Jorgensen et al describe a **transducer** or air pump 10 that comprises a housing or body 12 with a fitting 14 at one end **for attachment to a standard water faucet** that communicates with a water inlet chamber 16. The base of the chamber is provided with a central bore 20 in which valve stem 22 is slidably mounted. The chamber also is provided with an additional bore 24 connecting the water inlet chamber 16 to the water chamber 26. [Col. 2, lines 51-64]

In operation, the fitting 14 is connected to a water faucet. With the water turned on, water enters the water inlet chamber 16 and runs through bore 24 to the waster chamber 26. As the water chamber 26 fills, **the pressure of the water bearing on diaphragm 38 gradually forces the diaphragm toward the air chamber**. As this happens the **toggle actuators 34 and 36** move in such a way that the arms 35 bear against the **snap action toggle mechanism 32** and move the toggle mechanism enough to cause the toggle mechanism 32 to snap from the stable position shown in FIG. 1 to the stable position shown in FIG. 2. When this happens the toggle mechanism pulls the valve stem 22 toward the air chamber so that valve 28 abruptly closes bore or passage 24 while valve 30 abruptly opens passage 29. [Col. 3, lines 27-42]

As the valve 30 opens passage 29, the force exerted by coil spring 40 on the diaphragm moves the diaphragm toward the water chamber 26 so that the water in water chamber 26 is forced out through exit passage 29. This movement of the diaphragm carries the toggle actuators 34 and 36 with it causing arms 37, which bear against the toggle mechanism to cause it to snap back to the stable position shown in FIG. 1. [Col. 3, lines 54-61]

The Examiner suggests that

[a]though Jorgenson shows the [diaphragm] installed as part [of] a pump, it would be possible to hold the [diaphragm] in a hand; for example, the [diaphragm] was likely held in a hand as the pump was being assembled.

Applicant agrees that the diaphragm of Jorgenson may well have been held in a hand as the pump was being assembled. However, nothing in Jorgenson teaches or suggests that the diaphragm has two stable equilibrium conditions. The drawings suggest that the diaphragm is a sheet of an elastomeric material.

Further, with respect to two equilibrium conditions, Jorgenson teaches that

Valve stem 22 is also connected to the hinge of a snap toggle mechanism 32. This snap toggle mechanism is movable between the two stable positions . . . The toggle actuators are generally F-shaped in the diagram, and have arms 35 and 37 which move with the diaphragm.

[Col. 3, lines 7-18]

It can be seen in the diagrams that the diaphragm is held by the side walls of the transducer. There is no suggestion here that the diaphragm *per se* could have two stable equilibrium conditions.

Jorgenson further discloses at Col. 3, lines 31-38:

As the water chamber 26 fills, the pressure of the water bearing [on] the diaphragm 38 gradually forces the diaphragm toward the air chamber. As this happens the **toggle actuators 34 and 36 move** in such a way that the arms 35 bear against the snap action toggle mechanism 32 and move **the toggle mechanism enough to**

cause the toggle mechanism to snap from the stable position
shown in FIG. 1 to the stable position shown in FIG. 2.

[Emphasis added.]

Thus, Jorgenson teaches that the toggle mechanism has the two stable positions.

Jorgensen et al. fail to teach or suggest the presently claimed handheld amusement and stress relief device. The diaphragm of the transducer in Jorgensen et al. is moved by toggle actuators 34 and 36 based on water pressure and spring pressure. There is not even a hint of a suggestion that manual manipulation is involved or desired.

Thus, it is not seen how the present invention is anticipated by Jorgenson. Nor is it seen how the present invention would the have been obvious to one of ordinary skill in the art in view of Jorgensen et al., whether each taken alone or in combination any prior art of record.

It is further submitted that none of the dependent claims would have been obvious from Jorgensen et al. because Jorgensen has nothing to do with a handheld amusement and stress relief device.

An early reconsideration and notice of allowance are earnestly solicited.

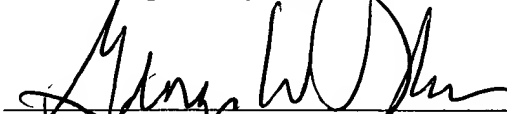
USSN: 09/417,428
Inventor: Lyman
Attorney Docket No.: 48641 (71923)
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In view of the length of prosecution of this application, and the many changes of the basis for rejections that have been withdrawn, Applicant requests that this examination be expedited and, if issues still remain, the examiner call Applicant's attorney to attempt to resolve the issues expeditiously.

Date:

28 Feb '16

Respectfully submitted,



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